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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,461	09/23/2003	Armin Faller	32140-192302	9489
26694	7590	10/31/2005	EXAMINER	
VENABLE LLP			BUI, LUAN KIM	
P.O. BOX 34385			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20045-9998			3728	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/667,461	Applicant(s) FALLER ET AL.	
	Examiner Luan K. Bui	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-37 is/are rejected.
- 7) ☒ Claim(s) 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The preamble in claims 22 and 37 have been accorded no weight in accordance with the court's instruction in *Kropa v. Robie*, 187F.2d 150, 152, 88 USPQ 478 (CCPA 1951).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 22-25, 29-32 and 35 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Ohuchi et al. (5,090,607; hereinafter Ohuchi'607). Ohuchi'607 discloses a holder (70) comprising a transport rail extending longitudinally and the transport rail having a back portion (74), a plurality of first clamping legs (71) extending at an angle from the longitudinally extending edges of the back portion and a plurality of slots (72) disposed along each of the clamping legs (Figures 1a-1c). The slots of Ohuchi'607 are inherently capable of holding knitting tools.

As to claims 23-24, the first clamping legs are disposed parallel to and spaced apart from one another and adapted to hold together at least two parts of each article (33).

As to claim 25, the holder of Ohuchi'607 formed from plastic material and the plastic material is resilient.

As to claims 29-32, the holder formed from plastic material so it is flexible and it has a uniform wall thickness (Figure 1b).

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3. Claims 22, 23, 35 and 25-32 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Kenyon (5,497,882). Kenyon discloses a holder (10) comprising a transport rail extending longitudinally and the transport rail having a back portion (11), a plurality of first clamping legs (15) extending at an angle from the longitudinally extending edges of the back portion and a plurality of slots (17) disposed along each of the clamping legs (Figures 1-2). The slots of Kenyon are inherently capable of holding knitting tools.

As to claim 23, the first clamping legs are adapted to hold together at least two parts of each package (20).

As to claim 25, the holder of Kenyon formed from plastic material and the plastic material is resilient.

As to claims 26-28, Kenyon discloses at least one of the first clamping legs has a portion that diverges away from the other first clamping leg (two legs extended in opposite directions) and the slots (17) are entirely disposed on in the diverging portion (15) and the diverging portion of the at least one first clamping leg defines an obtuse angle with the other first clamping leg.

As to claims 29-32, the holder formed from plastic material so it is flexible and it has a uniform wall thickness (Figure 1).

4. Claims 22, 23, 26, 28, 29, 34, 35 and 37 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Chow (5,036,975). Chow discloses a holder (20) comprising a transport rail extending longitudinally and the transport rail having a back portion, a plurality of first clamping legs extending at an angle from the longitudinally extending edges of the back portion and a

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plurality of slots (21) disposed along each of the clamping legs (Figures 1-2). The slots of Chow are inherently capable of holding knitting tools.

As to claim 23, the first clamping legs are adapted to hold together at least two parts of each article (30).

As to claims 26 and 28, Chow discloses at least one of the first clamping legs has a portion that diverges away from the other first clamping leg (starting from a member 24 or handle 25, the legs extended away from each other) and the slots are entirely disposed on in the diverging portion.

As to claim 34, Chow discloses the articles (30) comprises of different sizes (see Figure 1), the slots on one of the plurality of clamping legs (left side of the case along the hinge 27) have lengths that differ from the lengths of the plurality of slots on the other clamping leg (right side along the hinge 27).

As to claim 37, Chow discloses a holder (20) comprising a transport rail (left side along the hinge 27) extending longitudinally and the transport rail having a back portion, a plurality of first clamping legs extending at an angle from the longitudinally extending edges of the back portion and a plurality of slots (21) disposed along each of the clamping legs (Figures 1-2).

Chow further discloses a closure part (right side of the case along the hinge 27) having a plurality of second clamping legs adapted to abut the first clamping legs of the transport rail when the holder is in closed position.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 33 and 36 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Ohuchi et al. (5,090,607; hereinafter Ohuchi'607) or Kenyon (5,497,882) in view of Official Notice. Ohuchi'607 or Kenyon discloses the holder as above having all the limitations of the claims except for a casing. Official Notice is taken of the old and conventional practice of providing a casing for holding items during transportation for better protecting the items. It would have been obvious to one having ordinary skill in the art in view of Official Notice to modify the holder of Ohuchi'607 or Kenyon so it includes a casing for holding the holder for better protecting the holder. As to claim 33, the casing is considered equivalent to a closure part to fit over the transport rail as claimed.

Allowable Subject Matter

7. Claim 38 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Drawings

8. The drawings were received on 8/26/2005. These drawings are approved by the Examiner.

Response to Arguments

Applicant's arguments filed on 8/26/2005 have been fully considered but they are not deemed to be persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

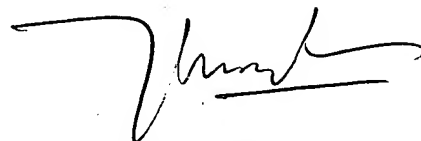
• Art Unit: 3728

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.

lkb
October 27, 2005



Luan K. Bui
Primary Examiner



REPLACEMENT DRAWING
U.S. Application No. 10/667,461 - Armin FÄLLER *et al.*
Title: TOOL HOLDER FOR COMPOUND NEEDLES AND
SHIPPING UNIT
Attorney Docket No. 32164-192302
Sheet 2 of 4

APPROVED FOR ENTRY. LKB
10/27/05

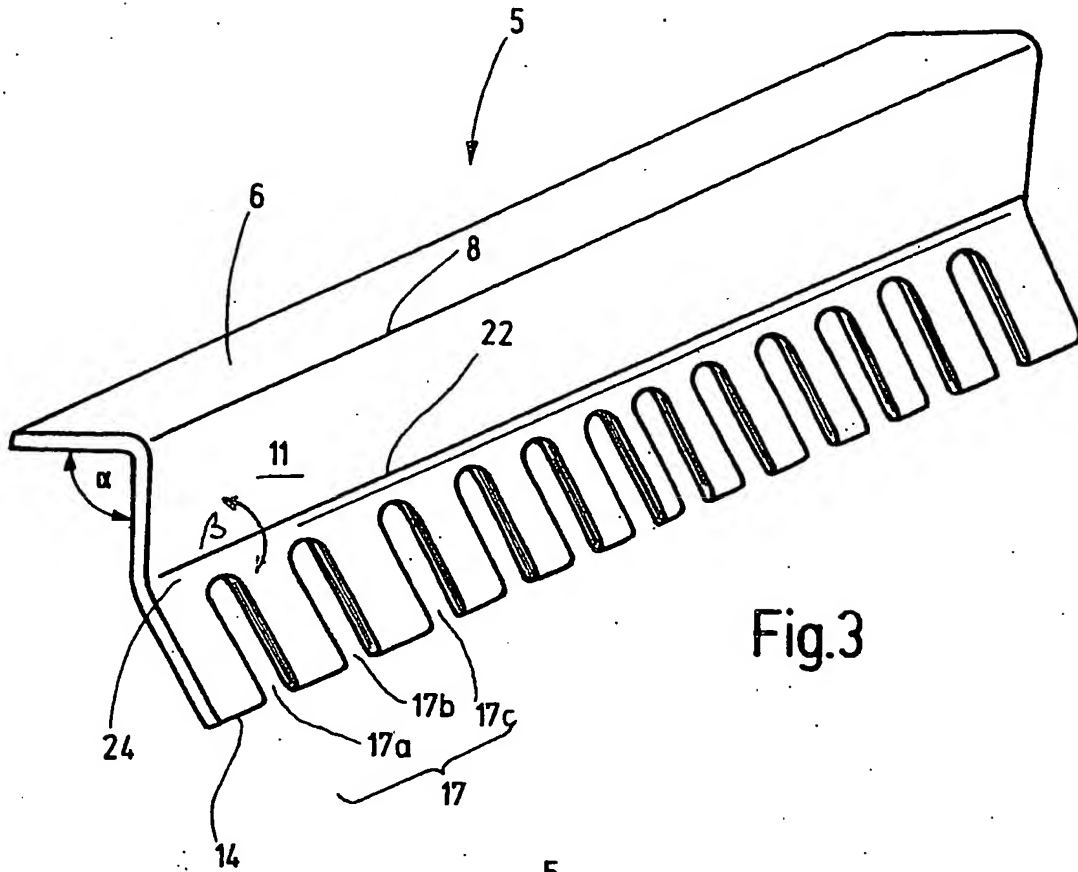


Fig.3

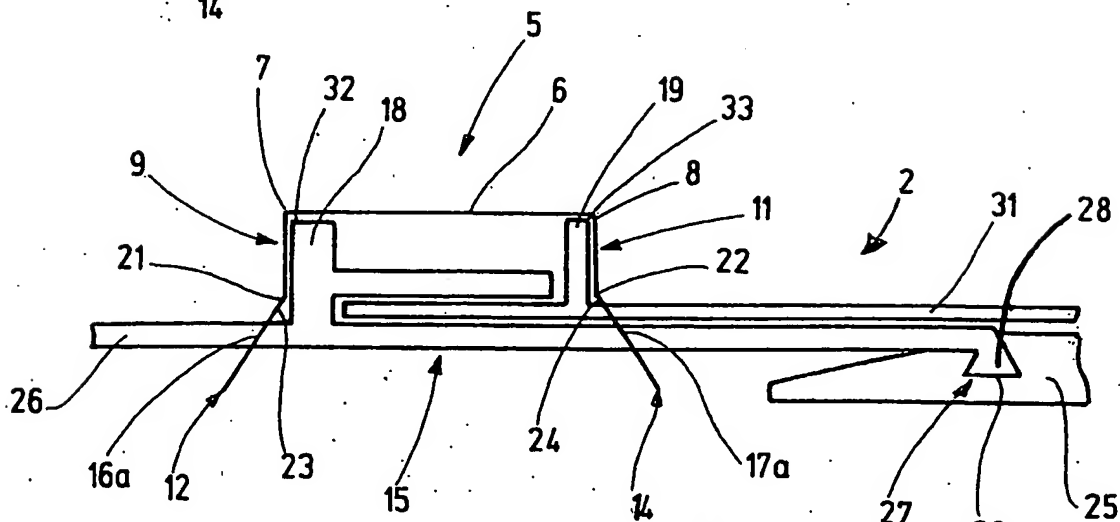


Fig.4